

Acquiring Property for Utah's Transportation System

Quality Transportation Today, Better Transportation Tomorrow



UDOT RIGHT OF WAY GOALS

1. To provide a safe, reliable and environmentally sensitive transportation system.
2. To be courteous, fair and protect the property right of Utah's citizens.
3. To pay just compensation (fairmarket value) for the needed property.
4. To comply with Title VI of the Civil Rights Act of 1964 and The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended (the Uniform Act).

This will help you understand the right of way acquisition process and your legal rights. If you have questions that are not answered in the booklet, please contact the Right Of Way Division or the nearest UDOT Region or District Office. (See Page 10)

Utah is known as the "Crossroads of the West." Utah's transportation system is vital not only to our State but also to our neighboring states. Our highways provide access to communities, businesses, natural resources, recreation areas and scenic places. In the upcoming years many international and national visitors will use our highways.

The Utah Department of Transportation's mission is to provide a quality transportation system today and to make tomorrow's transportation network better. Our highways must serve the needs of commerce, industry and the public. To accomplish our mission, UDOT will continue to improve our existing highways, and when necessary, new highways will be constructed.

When UDOT begins planning a construction project, property owners typically ask whether we have the legal right to purchase private property for a public use. Yes, the department can buy property for highway purposes. When private property is needed, UDOT must pay the property owner for their land. This right is guaranteed in the United State Constitution (5th and 14th Amendments) and the Utah State Constitution (Article one Sections 7, 22).

PROJECT PLANING

Much time and effort goes into the planning of a transportation project. Each project must have a defined need and purpose. A construction project's need and purpose are based on current traffic counts, traffic accident records, community needs, highway building costs, and projected traffic growth.

During the project planning phase, UDOT holds public hearings. At these meetings the project's need and purpose are explained. These hearings give the public an opportunity to give comments and to exchange information with UDOT. Hearings are held when a project has a substantial effect upon an area's social structure, economy and environment. They are also held when a highway is built in a new location.

PROPERTY ACQUISITION

When UDOT requires a private land for highway purposes, the property owner will be contacted by an appraiser who will make a valuation of their property. A short time later, an Acquisition Agent will contact the owner with an offer to purchase the property. If their home or place of business is to be purchased, a Relocation Agent will make an appointment to discuss their upcoming move and give them information about UDOT's Relocation Assistance Program.

APPRAISAL

UDOT will assign an appraiser to make a report on the property's fair market value. The appraiser will inspect the property. The property owner or their representative will be invited to accompany the appraiser. During this visit, the owner should point out any features that may

have an affect upon the property's value. The appraiser will need to know whether anyone shares any rights or interests in the property and whether any on site improvements belong to someone else. It would also be helpful to tell the appraiser about any nearby properties that have recently sold.

The appraisal report determines a property's fair market value. Fair market value is the basis for determining the amount that the property owner will be offered. The appraiser will evaluate the property's value by using the standard appraisal methods established by the *Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970* and the *Uniform Standards of Professional Appraisal Practices*.

PARTIAL PROPERTY PURCHASE

When UDOT buys only part of a property, the property owner will be paid the per unit value of their whole property which is the price per acre or per square foot. If improvements such as buildings, fences, and landscaping are within the partial taking, the owner will be paid for the improvements' contribution toward the value of the whole property. If the remaining property suffers a loss in value, damages will be paid. The property damage amount and partial taking value cannot exceed the market value of the whole property.

ACQUISITION

Once the appraisal report is complete, an Acquisition Agent will make an offer to purchase the property owner's land. This offer will be the property's appraised value.

UDOT does not bargain, dicker, horse-trade or negotiate over property values. These types of negotiation methods erode the Constitutional Principle of Just Compensation. Under the principle of just compensation a property owner should not be better or worse off after a right of way acquisition than before. UDOT believes that bargaining and horse-trading over property values could easily lead to governmental favoritism, fraud and dishonesty.

Most of UDOT's land purchases are partial acquisitions. With a partial acquisition, the property owner will have some land remaining. If it is determined that the remaining property has little value or utility, the Department will offer to purchase the remainder. The property owner will have a choice whether to sell or keep the remaining property.

TYPES OF PROPERTY RIGHTS ACQUIRED

Private property interest and rights are usually transferred to the Department of Transportation by:

1. **Fee Simple Title:** the State acquires all interest and rights in a given property;
2. **Easement:** the owner retains title, but the State acquires the right to use a property for a specific purpose (for example, sidewalk, slope placement, traffic signal or drainage);
3. **Temporary Easement:** the State acquires the right to use a property for a temporary period. This period will automatically expire at the conclusion of a construction project or on a specific date.

If any other type of property rights or interests are to be acquired, the Acquisition Agent will explain them.

ADVANCE ACQUISITION

In some limited circumstances, UDOT may acquire property before a construction project has been approved. Property owners can request an advance purchase by writing to the Utah Department of Transportation, Regional Director(address in back). This written request must show why the owner would suffer a hardship if the land purchase is delayed until after the project has been formally approved. The approval for an advance acquisition purchase will be made by the Utah Transportation Commission. The Commission's decision will be based on availability of funds and on a need for the property.

PAYMENT

After the Right of Way Agreement has been signed and approved, your payment should come within 30 days. However, if the property has incurred any liens such as mortgages, judgements, and unpaid taxes, your payment may be delayed. UDOT will contact the lien holders to see if the outstanding liens need to be paid. With a total land purchase, UDOT will pay all current and past property tax liens from your proceeds.

RELOCATION

If you are to be displaced from your home or business due to the purchase of your property, you may stay there for at least 90 days from the date a Notice Of Eligibility is received. This time period is to help you prepare to move. A Relocation Agent or an Acquisition Agent will give you the needed information on moving and available relocation assistance.

EMINENT DOMAIN ACTION

UDOT's Acquisition Agents are authorized to buy property at the approved appraised value. If you and the Department do not agree on the property value, UDOT will file an eminent domain request in a State District Court.

After reviewing the case, the Court will issue an Order of Immediate Occupancy. This judicial order gives UDOT the right to use only that portion of your property needed for highway construction purposes.

As part of the Order of Occupancy, the State will make payment through the Court in the amount of the State's appraisal. ***This payment does not limit or affect your legal rights in having the Court decide the property's market value.***

If the State begins an eminent domain action, you should consult with your own attorney about your legal rights. If you do not desire to get an attorney at this time, you may contact the State's Private Property Ombudsman.

GENERAL RIGHT OF WAY INFORMATION

TAXES

Property purchased for transportation purposes is obtained under the threat of condemnation. The Internal Revenue Service classifies this type of land purchase as an "Involuntary Conversion." You should contact the IRS and the Utah State Tax Commission to learn whether taxes are to be paid.

GREENBELT PROPERTY TAXES

The property owner is responsible for paying their property taxes. If a property is being taxed under the Farmland Assessment Act, "Greenbelt property taxes," State law requires the Department of Transportation to pay the "rollback taxes."

LOANS

As with any other real estate transaction, when the entire property is purchased, the mortgage will be paid in full. Where only part of the property is taken, it may not be necessary to pay off the mortgage. You should contact your lender if you have any questions about your loan and UDOT's purchase of your property. The Relocation Agent or Acquisition Agent may be able to answer your questions.

Many times a lending agency will have you sign a Trust Deed. This deed shows that a property is security for a mortgage loan. Normally the Trust Deed will have a section that talks about the government buying the property and who will receive the government's payment. The Utah Department of Transportation must legally follow the agreements made in the Trust Deed. We advise you to carefully read your Trust Deed or contact your lending agency for information.

ACCESS OPENINGS

The Utah Department of Transportation controls all access rights on to and off of the State Highway system. Highways are designated as non-access, limited access or partial access. A non-access highway only allows access at interchanges. A limited access highway allows access at designated areas. A partial access highway permits access that does not create a safety or traffic hazard. If you have any questions regarding access to your property or wish to obtain access, please contact a UDOT Regional permit officer.

**Utah Department of Transportation
Right of Way Division**

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(801) 965-4209

Mailing Address

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Region One

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(801) 399-5921
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Ogden, UT 84112

Region Two

2060 South 2400 West
Salt Lake City, Ut 84104
(801) 975-4801

Region Three

825 N. 900 W.
Orem, UT 84057-3058
(801) 227-2001

Region Four

1345 S. 350 W.
Richfield, UT 84701
(435) 896-9501

Cedar City District

1470 N. Airport Rd.
Cedar City, UT
(435)865-5500
Mailing Address
PO Box 1009
Cedar City, UT 84721-1009

Price District

940 South Carbon Ave.
Price UT 84501-0903
(435) 636-1470

Richfield District

708 South 100 West
Richfield, UT 84701
(435) 896-1399

GLOSSARY

Acquisition: The process of acquiring real estate or some other property interest.

Appraisal: The process of determining fair market value in a property or property interest. The valuation is done by a qualified and state certified appraiser.

Closing: A meeting where UDOT and the property owner signs the property title documents, contract and payment order.

Condemnation: The taking of private property for a public use. Condemnation is not used until all attempts to reach an agreement have failed.

Eminent Domain: The legal process of the government acquiring property by condemnation which includes the payment of just compensation.

Fair Market Value: The sales price that a willing and informed seller and buyer would agree upon within a reasonable time. This price is usually arrived at by analysis of comparable sale in the area.

Just Compensation: The price government must pay for real estate. Just compensation is established by the appraisal's fair market value.

Highway Purposes: Land and property used for highways, freeways, maintenance sheds and yards, highway rest areas, traffic signals, road material sites, weigh stations, and etc.

Lien: An encumbrance against a property for money, either voluntary or involuntary. Examples are mortgages, loans and taxes.

Partial Taking (Partial Acquisition): The purchase of only a portion of an individuals property.

Uneconomic Remnant: The portion of an owner's property that remains after an acquisition which is determined to be of little value and utility.

Offer To Purchase: A written offer stating the State's intention to buy real estate at a specific price.

Order Of Immediate Occupancy: A judicial order giving the State the right to use the portion of a property that is needed for highway purposes.

Real Estate: Land and anything permanently affixed to land, such as buildings, fences, and those things attached to buildings, such as light fixtures, plumbing heating fixtures or other such items which would be personal property if not attached. The term is generally synonymous with real property.

Taking: This is a real estate term used to describe acquisition by eminent domain for right of way and highway purposes